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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,339	07/08/2003	Clement Robertson	56162.000419	7869
24504 7590 10/17/2007 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY STE 1500 ATLANTA, GA 30339			EXAMINER KANG, SUK JIN	
			ART UNIT 2619	PAPER NUMBER
			MAIL DATE 10/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/614,339

Applicant(s)

ROBERTSON, CLEMENT

Examiner

Suk Jin Kang

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. Replacement sheets for the new drawings of Figure 14-19 have not been received as stated in applicant's submitted arguments/remarks.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-33** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nichols et al.** (U.S. Patent # 6,356,557 B1) in view of **Joshi et al.** (U.S. Patent # 6,006,017).

Consider **claims 1 and 12**, Nichols et al. disclose a method and system for optimizing cell available (CLAV) status polling of a plurality of physical interface addresses, the method and system comprising the steps of: polling a plurality of PHY addresses to determine CLAV status (column 3 lines 56-61); receiving the CLAV status for each one of the plurality of PHY addresses (column 1 lines 38-63, column 3 lines 46-55); re-polling each PHY address with a CLAV status (column 5 lines 7-13), but may not expressly disclose determining whether the CLAV status could change for each PHY address and re-polling only each of the PHY address with the CLAV status that could change.

In the same field of endeavor, Joshi et al. disclose determining whether the CLAV status could change for each PHY address (column 4 lines 41-57, column 7 lines

29-36) and re-polling only each of the PHY address with the CLAV status that could change (figure 7, column 9 lines 3-16 and 25-38).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate CLAV statuses that could change as taught by Joshi et al. with the method and system as disclosed by Nichols et al. for the purpose of efficiently using available bandwidth.

Consider **claim 23**, Nichols et al. disclose polling a plurality of PHY addresses to determine CLAV status (column 3 lines 56-61); receiving the CLAV status for each one of the plurality of PHY addresses (column 1 lines 38-63, column 3 lines 46-55); and re-poll only each of the PHY address with the CLAV status (column 5 lines 7-13), but may not expressly disclose a computer readable medium comprising a set of instructions for optimizing cell available (CLAV) status polling of a plurality of physical interface addresses and being adapted to manipulate a processor, determining whether the CLAV status could change for each PHY address, and re-polling only each of the PHY address with the CLAV status that could change

In the same field of endeavor, Joshi disclose a computer readable medium comprising a set of instructions for optimizing cell available (CLAV) status polling of a plurality of physical interface addresses and being adapted to manipulate a processor (column 16 lines 26-40), determine whether the CLAV status could change for each PHY address (column 4 lines 41-57, column 7 lines 29-36), and re-polling only each of the PHY address with the CLAV status that could change (figure 7, column 9 lines 3-16 and 25-38).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate CLAV statuses that could change and a computer readable medium as taught by Joshi et al. with the method and system as disclosed by Nichols et al. for the purpose of efficiently using available bandwidth.

Consider **claims 2, 13, and 24**, and as applied to claims 1, 12, and 23, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention, but may not expressly disclose wherein the CLAV status that could change comprises an inactive CLAV status.

Nonetheless, Joshi et al. further discloses wherein the CLAV status that could change comprises an inactive CLAV status (column 7, lines 19-36).

Consider **claims 3, 14, and 25**, and as applied to claims 1, 12, and 23, respectively, Nichols et al., as modified by Joshi et al., disclose wherein the CLAV status that could change comprises a completed cell transfer (column 1 lines 55-67).

Consider **claims 4, 15, and 26**, and as applied to claims 2, 13, and 24, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention, but may not expressly disclose re-polling addresses with an inactive CLAV status.

Nonetheless, Joshi et al. further discloses re-polling addresses with an inactive CLAV status (column 4 lines 29-36, column 6 lines 20-31).

Consider **claims 5, 16, and 27**, and as applied to claims 3, 14, and 25, respectively, Nichols et al., as modified by Joshi et al., disclose wherein the step of re-polling further comprises the step of: re-polling addresses having completed a cell transfer (column 5 lines 7-24).

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Consider **claims 6, 17, and 28**, and as applied to claims 1, 12, and 23, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention, but may not expressly disclose wherein re-polling of PHY addresses having an active CLAV status are avoided.

Nonetheless, Joshi et al. further discloses wherein re-polling of PHY addresses having an active CLAV status are avoided (column 8 lines 19-38).

Consider **claims 7, 18, and 29**, and as applied to claims 1, 12, and 23, respectively, Nichols et al., as modified by Joshi et al., disclose wherein the CLAV status comprises ability to receive a cell (column 1 lines 38-63).

Consider **claims 8, 19, and 30**, and as applied to claims 7, 18, and 23, respectively, Nichols et al., as modified by Joshi et al., disclose wherein a PHY address is re-pollled within at least four bytes of a previous cell transfer (column 3 lines 62-67, column 4 lines 1-3).

Consider **claims 9, 20, and 31**, and as applied to claims 1, 12, and 23, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention, but may not expressly disclose wherein the CLAV status comprises the ability to transmit a cell.

Nonetheless, Joshi et al. further discloses wherein the CLAV status comprises the ability to transmit a cell (column 2 lines 25-41, column 5 lines 17-38).

Consider **claims 10, 21, and 32**, and as applied to claims 1, 12, and 23, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention,

but may not expressly disclose wherein each PHY address with an inactive CLAV status is re-pollled until the PHY address indicates an active CLAV status.

Nonetheless, Joshi et al. further discloses wherein each PHY address with an inactive CLAV status is re-pollled until the PHY address indicates an active CLAV status (figure 7, column 9 lines 1-43).

Consider **claims 11, 22, and 33**, and as applied to claims 1, 12, and 23, respectively, Nichols et al., as modified by Joshi et al., disclose wherein the physical interface is a UTOPIA (abstract, column 3 lines 1-21).

### ***Response to Arguments***

4. Applicant's arguments filed on August 3, 2007 have been fully considered but they are moot in view of the new ground(s) of rejection and are not persuasive.

Consider claims 1, 12, and 23, Applicant argues, on page 10 of the remarks, that "...Nichols and Joshi fail to disclose, teach, or suggest certain features in claims 1, 12, and 23...re-polling only each of the PHY address with the CLAV status that could change."

The Examiner respectfully disagrees with Applicant's argument because as recited in the above rejection, Joshi suggests a secondary station which will receive a specific poll in response to an initial general poll and an indication of active state from an idle state (figure 7, column 9 lines 3-16 and 25-38). Therefore, specific polling after that of a general polling (re-polling) of secondary stations (PHYS address), which can change from an active to idle state (status that could change), is suggested by Joshi.



Thus Nichols, in view of Joshi, discloses and suggests re-polling only each of the PHY address with the CLAV status that could change.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

7. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Suk Jin Kang whose telephone number is (571) 270-1771. The examiner can normally be reached on Monday - Friday 8:00-5:00 EST.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

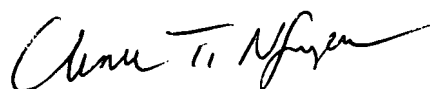
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*Suk Jin Kang*  
S.J.K./sjk

October 3, 2007



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